

INFORMATION BULLETIN #28S

SALES TAX

FEBRUARY 2008

(Replaces Information Bulletin #28 dated October, 2007)

DISCLAIMER: Information bulletins are intended to provide nontechnical assistance to the general public. Every attempt is made to provide information that is consistent with the appropriate statutes, rules and court decisions. Any information that is not consistent with the law, regulations or court decisions is not binding on either the Department or the taxpayer. Therefore, the information provided herein should serve only as a foundation for further investigation and study of the current law and procedures related to the subject matter covered herein.

SUBJECT: Sales of Motor Vehicles & Trailers

REFERENCES: IC 6-2.5-1-5, IC 6-2.5-1-6, IC 6-2.5-2-2, IC 2.5-3-6, IC 6-2.5-3-7, IC 6-2.5-4-10, IC 6-2.5-5-38.2, IC 6-2.5-5-39, IC 6-2.5-13-1,

INTRODUCTION

The sale of any motor vehicle or trailer shall be subject to the sales/use tax unless such transaction is entitled to a statutory exemption as shown on Form ST-108E.

If a motor vehicle or trailer is purchased from a registered Indiana dealer, the dealer must collect Indiana sales tax and provide to the purchaser a completed Form ST-108 showing the tax has been paid. If the purchaser claims an exemption and tax is not collected by the dealer, the statement at the bottom of Form ST-108E must be completed disclosing the reason code for exemption and must be signed by the purchaser. When a purchaser claims an exemption on Form ST-108E, the dealer must retain a completed copy of the ST-108E exemption certificate to document the exempted sale. An exemption form ST-105D may be used to document dealer-to-dealer sales sold exempt for the purpose of resale.

General Application of Sales Tax:

Effective July 1, 2004 ALL SALES of motor vehicles and trailers purchased in Indiana are subject to Indiana sales tax. This includes sales where the purchaser intends to

immediately register, license or title for use in another state.

Recreational Vehicles and Trailers Only:

Effective July 1, 2005 a partial to a full exemption may be applicable to the purchase of a recreational vehicle (RV) or a cargo trailer (as defined by I.C. 6-2.5-5-39) pertaining to the purchase by a NONRESIDENT only. Additional information on this exemption is available on the Department's Web site at <http://www.in.gov/dor/3786.htm>

Recreational Vehicles and Trailers Only:

Effective July 1, 2006 a full exemption is applicable to the purchase of a recreational vehicle (RV) or a cargo trailer by a NONRESIDENT if the purchaser affirms the purchase will be registered/titled within 60 days in a reciprocal state or country. A reciprocal state is one that will allow an exemption to an Indiana resident who purchases a recreational vehicle or trailer to be registered/titled in Indiana. Dealers must collect the Indiana sales tax on sales to a nonresident of Indiana if registering or titling in one of the following non-reciprocal states/countries.

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|----------------------|----------------------------|
| California | North Carolina |
| Florida | South Carolina |
| Maine | Canada |
| Massachusetts | Mexico |
| Michigan | All Other Countries |
| Mississippi | |

Trailer Sale Note: In addition to the above list of non-reciprocal states an Indiana dealer must collect the Indiana sales tax on the sale of trailers to residents of **Kentucky** or **Rhode Island** as these states are not reciprocal with Indiana as it relates to trailer sales. Exemption Certificate is available on the Department's web site at <http://www.in.gov/dor/taxforms/pdfs/st-137rv.pdf>

I. AMOUNT SUBJECT TO TAX

A. REBATES VERSUS VARIOUS OTHER FORMS OF DISCOUNTS

Any adjustment shown on a customer's purchase agreement for which the dealer receives payment or credit from a third party is to be treated as a payment and is not a reduction of the taxable selling price.

A **manufacturer's rebate** is not an allowable deduction from the taxable selling

price if the dealer receives payment for such rebate, as shown on the customer's purchase agreement. A manufacturer's rebate, as shown on the written purchase agreement, is a form of payment. It is not a reduction in the dealer's gross retail selling price.

Rebate Example: An automobile manufacturer provides a \$2,000 rebate to a customer on the purchase of a specified model of automobile. The customer negotiates a \$20,000 purchase price on the automobile. The customer then has a choice. The customer may pay \$20,000 to the dealer and receive \$2,000 in cash directly from the manufacturer. In this situation the sales price is \$20,000. In the alternative, the customer may assign the rebate to the dealer and pay an additional \$18,000 for the automobile. If the amount of the rebate is known by the dealer at the time of the sale, and the rebate is identified as a manufacturer's rebate on documentation received by the purchaser, the rebate is included in the sales price. Thus, the sales price is \$20,000 whether the customer keeps the rebate or applies the rebate as a payment to the purchase price.

A **manufacturer's price reduction** is considered deductible for sales tax purposes. This is because the manufacturer is actually reducing the selling price of the vehicle. The dealer does not receive the amount of the price reduction as consideration for the sale.

A **dealer's price discount** is also considered deductible in determining the amount on which sales tax is charged. The selling price is reduced by the dealer's price discount. The dealer does not receive the amount of the price discount as consideration for the sale.

An **Employee discount** is when an automobile manufacturer has an automobile purchase plan for its qualified employees or qualified employees of an affiliate as determined in a management agreement with the manufacturer's employees. Pursuant to the program, the employee may purchase a vehicle from an authorized dealership at a predetermined price. If the dealer receives a reimbursement from the manufacturer for the benefit of the employee, the reimbursement is not included in the sales price.

B. TRADE-IN ALLOWANCE

The deduction for a trade-in allowance applies only to "like-kind exchanges" where the vehicle or trailer to be traded is **owned and titled** in the name of the customer.

A like-kind exchange means a motor vehicle traded for another motor vehicle, or a trailer traded for another trailer. A trade-in of a vehicle for a trailer is not a "like-kind exchange" and is not deductible in the calculation of the amount of the taxable gross retail income received by the dealer. Non-like-kind exchanges are merely another form of a payment to the dealer which does not reduce the dealer's gross retail income.

The gross trade-in value is deductible from the taxable selling price for sales tax purposes.

C. DOCUMENTATION FEES

Documentation fees for services performed **after the transfer** of a vehicle or trailer are not considered part of the sales price and, therefore, are not subject to sales tax. Transfer of a vehicle or trailer takes place when the purchaser takes possession and control of the property and assumes the risk of loss, even though title has not yet been transferred. The dealer must maintain adequate records to show which services pertain to the fees charged and that the services were performed after the transfer of the vehicle or trailer to be exempted from sales tax. Documentation fees charged for services performed **prior to the customer taking physical possession** of the vehicle or trailer are subject to sales tax.

II. SALES - EXAMPLES OF TAXABLE SELLING PRICE (T=Taxable; E=Exempt)

| | | |
|----|--------------------------------|------------|
| A. | (1) Sticker List Price | \$12,000 T |
| | (2) Dealer Discount | \$ 500 E |
| | (3) Trade-In Value (like-kind) | \$ 4,000 E |
| | (4) Taxable Selling Price | \$ 7,500 |

The dealer discount (number 2) is a reduction in selling price and is an allowable deduction from the amount subject to tax. Number 3 is consideration received by the seller; however, per statute, it is deductible from the amount subject to sales tax. Taxable selling price is 1 minus 2 minus 3.

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|----|--|------------|
| B. | (1) Sticker List Price | \$12,000 T |
| | (2) Dealer Discount | \$ 500 E |
| | (3) Trade-In Value (like-kind) | \$ 4,000 E |
| | (4) Mfg Rebate Paid Directly to "Customer" | \$ 1,000 |
| | (5) Taxable Selling Price | \$ 7,500 |

Numbers 2 and 3 reduce the amount subject to sales tax. Number 4 does not reduce the amount

subject to sales tax. Note that in this example the rebate is paid to the customer, not the dealer. **Compare this example to Example C below. These examples show that regardless who receives the rebate, it does not reduce the taxable selling price of the vehicle.** Taxable selling price is number 1 minus 2 minus 3.

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|-----------|--|-------------------|
| C. | (1) Sticker List Price | \$12,000 T |
| | (2) Dealer Discount | \$ 500 E |
| | (3) Trade-In Value (like-kind) | \$ 4,000 E |
| | (4) Mfg Rebate paid or assigned to "Dealer" | \$ 1,000 |
| | (5) Taxable Selling Price | \$ 7,500 |

Number 2 is a reduction from the selling price per statute. Number 3 is consideration received by the seller; however, per statute, it is deductible from the amount subject to sales tax. The manufacturer rebate number 4, paid to the seller by the manufacturer, is not an allowable deduction from the taxable selling price of the vehicle. Taxable selling price is number 1 minus 2 minus 3.

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| D. | (1) Sticker List Price | \$12,000 T |
| | (2) Discount | \$ 500 E |
| | (3) Trade-In Value (like-kind) | \$ 4,000 E |
| | (4) Mfg Price Cost Reduction (not paid to dealer) | \$ 1,000 E |
| | (5) Taxable Selling Price | \$ 6,500 |

Numbers 2, 3 and 4 are all allowable as a reduction of the amount of gross retail income subject to sales tax. Numbers 2 and 4 are true selling price reductions since the seller does not receive any payment. Number 3 is consideration (payment) received by the seller; however, like-kind exchanges (trade-in) are allowable as a reduction of the selling price subject to tax per Indiana Code. Taxable selling price is number 1 minus 2 minus 3 minus 4.

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|-----------|---------------------------------------|-------------------|
| E. | (1) Sticker List Price | \$12,000 T |
| | (2) Employee Discount | \$ 1,500 E |
| | (3) Trade-In Value (like-kind) | \$ 4,000 E |
| | (4) Taxable Selling Price | \$ 6,500 |

Number 2 is exempt as an employee discount from the manufacturer that may or may not appear on the purchase agreement. Number 3 is consideration received by the seller; however, per statute, it is deductible from the amount subject to tax.

Above examples are based upon the assumption the buyer takes physical possession of their purchase within Indiana.

III. INTERSTATE COMMERCE EXEMPTION

A vehicle or trailer sold in **interstate commerce** is not subject to the Indiana sales tax. To qualify as being “sold in interstate commerce” the vehicle or trailer must be physically delivered, by the selling dealer, to a delivery point outside Indiana. The delivery may be made by the dealer or the dealer may hire a third party carrier. Terms and method of delivery must be indicated on the sales invoice. The dealer must document terms of delivery and must keep a copy of such terms of delivery to substantiate the interstate sale. The exemption does not apply to sales to out-of-state buyers in which the buyer takes physical possession of a vehicle or trailer in Indiana, nor is the exemption valid if the buyer, and not the seller, hires a third party carrier to transport the vehicle or trailer outside Indiana. If the buyer hires the carrier, the carrier is acting as an agent for the buyer, and thus the buyer takes physical possession within Indiana. Possession taken within the state does not qualify as an interstate sale.

IV. SHOP SUPPLIES CONSUMED BY A DEALER

Consumable supplies used by a dealer, such as masking paper and tape, oil dry, sandpaper, buffing pads, rags and cleaning supplies, used to repair and service motor vehicles are not exempt purchases by the dealer. The dealer should pay sales tax upon these type purchases or remit use tax on the cost of these purchases on their sales tax returns. The purchaser (dealer) becomes the final consumer of such items because its customer does not become the owner of such consumable supplies. Although the dealer may charge the customer a fee for the dealer’s consumption of these materials, such items are not being sold to the customer in a retail transaction and sales tax is not to be collected from the customer.

Additional information pertaining to sales tax concerning vehicles and trailers is found on the Department’s website at <http://www.in.gov/dor/3781.htm>

A handwritten signature in black ink that reads "John Eckart". The signature is written in a cursive style with a large, looping initial "J".

John Eckart
Commissioner